

REMARKS

Claims 1, 10, 21-22 are pending in this application.

Dependent claims 5 and 15-20 have been canceled without prejudice or disclaimer, for simplicity and narrowing issues in this application and not related to any art. Cancellation of dependent claims after-final is expressly authorized by 37 CFR 1.116(a).

At page 2 of the Office Action, Claims 1, 10, 15-17 and 21-22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Narang (US 2001/0025296 A1) in view of Sherman et al. (US 2002/0051119 A1).

Applicants respectfully traverse the obviousness rejection.

For convenience of reference, it is noted that Applicant's claim 1 recites: "An Internet e-audition for a musical show." The inventive e-audition comprises the steps of: "on an Internet website, posting written sheet music for the musical show, the written sheet music including words," "receiving recorded versions by a singer of the sheet music," and "posting recorded versions of the sheet music on the website." (Applicant's claim 1.)

Narang fails to disclose or teach any sort of "audition" for a musical show. The term "audition" is well-known in the entertainment industry and clearly communicates that performers wanting a role are competing to be cast. Narang is not remotely on point regarding an audition, as Narang lacks any disclosure relating to auditioning singers or even to any other kind of auditioning performer (such as e.g., auditioning dancers, auditioning actresses, auditioning orchestra performers). Narang fails to teach or disclose competition between performers or any other indication of an "audition". Narang also fails to teach or disclose "a singer." Thus, Narang is quite removed from Applicant's claimed invention.

Also, it should not be overlooked that no reference cited by the Examiner discloses an Internet website having posted both sheet music and a recorded version as in Applicant's claims. Narang does not disclose an Internet website having posted on it both sheet music and a recorded version or versions. Sherman does not disclose an Internet website having posted on it both sheet music and a recorded version or versions.

Also, Applicant's claimed invention recites written sheet music that includes words and is ready to be sung. Narang lacks such a teaching or disclosure. Narang

only concerns a time before music (or certain other creative works) is written. In Narang, a musical score is one example of something being written as a team project. Narang discloses nothing about the time after music is written—nothing about getting music performed, recorded, or disseminated.

Narang is only directed to creation of works over a computer network, with “musical scores” being mentioned as one example of an artistic work, along with “screenplays, plays... and books.” [0007] Narang fails to teach or disclose performance of a created work generally, or of a musical score specifically. Narang is silent about anything to be done with an artistic work once it is written. As the Examiner admits, Narang fails to teach posting of audio-recorded songs on the website.

The Examiner artificially twists Narang in a direction that a person of ordinary skill in the art would not see. To such a person, Narang and Sherman are separate. Sherman is directed to a video karaoke system and is based on substituting a user’s voice for a film actor’s voice in a film clip. Sherman discloses that the user may compare the waveform and spectral analysis of his own voice against that of the original professional actor’s voice [0021], to compare his own timing, inflection and volume, such as an aspiring actor or a person learning a foreign language may want to do [0021, 0025], or as wanted in speech therapy. [0021, 0026] Narang simply does not concern voice. A person of ordinary skill in Applicants’ art would see Sherman for what it is, as teaching voice- or language-improvement using a video karaoke system, and Narang for what it is, as teaching team-writing over a computer network. Nothing about either reference would call to such a person to modify Narang based on Sherman. Objectively speaking, these two references are not reasonably combinable.

Moreover, even with the imaginary reference combination that the Examiner proposes, elements of Applicants’ presently claimed invention still are missing. Neither Narang nor Sherman discloses any sort of “audition” generally (or singing audition specifically), whether for a musical show or any other kind of project for which an “audition” might be held. Narang and Sherman both fail to teach or disclose receiving recorded versions by a singer of the sheet music as recited in Applicants’ claim. Neither Narang nor Sherman teaches getting written sheet music sung and recorded by different vocalists. Rather Narang is directed only to getting

an artistic work written (not performed), and Sherman is merely directed to a user's own vocal self-improvement. Even with both Narang and Sherman, much of Applicants' presently claimed invention is missing.

Also, it is noted that in the Final Office Action, the Examiner refuses to give the phrase "by a singer" in Applicant's claim 1 patentable weight for being, according to the Examiner, non-functional. Applicants respectfully disagree. The phrase "by a singer" distinguishes the claimed recording in which an actual singer sings sheet music from a computer-generated recording made using stored sounds without an actual singer. For example, if the sheet music were entered into a computer program that used stored digitized sounds to produce an audio version of the sheet music, that would not be a recording "by a singer." The wave forms from recordings by the different methods, computer-generated versus by a live singer singing a song, would be not identical. An audio recording "by a singer" contrasted to a machine-generated version would provide a different audio quality. The underlying computer data file from a singer recording a song would have more variety and personalized quality than a machine-generated version.

Thus, for the several above reasons applying to all of Applicant's pending claims, none of Applicant's claims 1, 10 and 21-22 should be found to be obvious over Narang taken with Sherman.

Also, Applicant points out the following regarding the dependent claims, respectively.

Concerning claim 10, the Examiner at the paragraph bridging pages 3-4 of the Final Office Action states his assumption that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Narang to include that posted artistic works include audio-recorded songs, with the Examiner reasoning that "it would advantageously increase the application field of the Narang's invention, thereby increase revenue." The Examiner's assumption is incorrect. A person of ordinary skill in the art would not so modify Narang in the direction of audio-recordings. Narang is concerned with work-in-progress, still being written; a collaborative writing team would be unlikely to want to involve performers too early, for artistic and legal reasons of not multiplying the number of original creators. Also, for a writer to involve performers introduces complexities on a practical level and is not easily carried out by a writer. For a writer to provide co-

collaborators an audio-recorded version of a vocal music score is considerable trouble compared to a writer just writing on his own. A composer of vocal music and the vocalist to sing that music are generally separate individuals. A composer cannot be assumed to have the quality of voice that is wanted, or the range. The composer would be unlikely to want to sing the music himself; he may be unlikely to want an early recording on record or distributed. The Examiner's assumption also overlooks the difficulties he is suggesting to introduce, in terms of equipment for audio recording and conversion to computer-readable files. The Examiner's assumption that a writer working on a Narang-style collaboration would modify Narang to post an audio-recording to the collaboration website is flawed on several fronts, because the Examiner's proposal adds cost, involves additional personnel, is not how most writers in the midst of writing would be willing to proceed, requires audio-recording and conversion equipment and takes too much time. The writer therefore clearly would not modify Narang's collaboration in the way that the Examiner proposes. Sherman fails to provide motivation for a person of ordinary skill in the art to go through all the work, time and expense that would be involved to do what the Examiner is suggesting. Sherman only teaches such a person about a voice-improvement video karaoke system. How the Examiner twists Sherman is not how a person of ordinary skill in the art would have thought about Sherman and Narang. Getting a team of writers to collaborate on a project in any sort of reasonable time frame is hard enough, without introducing the additional complexities that the Examiner proposes.

At page 4 of the Office Action the Examiner treats the recitation in Applicant's claim 10 of "at least two audio-recorded e-audition songs" as lacking patentable weight for being what the Examiner characterizes as "non-functional language." The Examiner's characterization is incorrect. How many, if any, audio-recorded e-audition songs are contained on a website can be actually ascertained. The Examiner is without legal basis for disregarding this claim language in Applicant's claim 10.

Applicant's claim 21 is to an Internet e-audition for Worlds Away Musical, in which written sheet music for Worlds Away Musical is posted on a website. Neither Narang nor Sherman teach or disclose an audition for Worlds Away Musical, or any other musical theater show. Neither Narang nor Sherman teach or disclose posting, as

an e-audition, any recorded version by a singer of sheet music of Worlds Away Musical or any other theater show.

Thus, for the reasons set forth above, Applicants' presently claimed invention of claims 1, 10 and 20-21 in each claim is substantially different from Narang, nor does Sherman bring a person of ordinary skill in the art to modify Narang to arrive at Applicants' invention. Reconsideration and withdrawal of the obviousness rejection are respectfully requested.

At page 5 of the Office Action, Claim 5 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Narang in view of Sherman and further in view of Miles. Claim 5 having been canceled, without prejudice, no response is believed needed at this time.

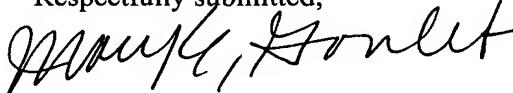
At page 6 of the Office Action, Claim 20 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Narang in view of Sherman and further in view of Ghani. Claim 20 having been canceled, without prejudice, no response is believed needed at this time.

In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 1, 10 and 21-22 be allowed, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephone or personal interview.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



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